



House of Representatives

File No. 500

General Assembly

January Session, 2005

(Reprint of File No. 102)

Substitute House Bill No. 6696
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 21, 2005

AN ACT PREVENTING BANK OR CREDIT UNION IMPERSONATION AND MISLEADING ADVERTISEMENTS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) No person shall use
2 the name or trademark of a bank or any of its affiliates or any
3 Connecticut credit union or federal credit union, as those terms are
4 defined in section 36a-2 of the general statutes, in any commercial
5 advertisement or solicitation for goods, products or services, where
6 such usage, in the context of such advertisement or solicitation, has the
7 capacity or tendency to mislead any consumer as to the existence or
8 nature of any affiliation, connection, association or endorsement
9 relationship between (1) the bank or its affiliates or such credit union,
10 and (2) such person or the products, goods or services of such person.
11 For the purposes of this subsection, the term "commercial
12 advertisement or solicitation" includes the content of an Internet web
13 site and direct mail solicitations.

14 (b) The Banking Commissioner shall enforce the provisions of
15 subsection (a) of this section. Whenever it appears to the commissioner

16 that any person has violated, is violating or is about to violate any of
17 the provisions of said subsection (a), the commissioner may take action
18 against such person in accordance with sections 36a-50 and 36a-52 of
19 the general statutes, which shall include the right to seek injunctive
20 relief, impose civil penalties and issue cease and desist orders, except
21 that no civil penalty in excess of ten thousand dollars per violation
22 may be imposed.

23 (c) Any bank or affiliate of a bank or any Connecticut credit union
24 or federal credit union that has had its name or trademark used in
25 violation of the provisions of subsection (a) of this section may, in
26 addition to any other remedy authorized by law, bring an action in the
27 superior court in the judicial district in which the bank or affiliate or
28 credit union has a branch or office to enjoin any act in violation of the
29 provisions of said subsection (a) and recover damages. The court shall
30 award damages in the amount of the actual damages or ten thousand
31 dollars per violation, whichever is greater. In any successful action for
32 injunctive relief or for damages, the court shall award to the bank or
33 affiliate or credit union, as the case may be, attorneys' fees and costs,
34 including court costs.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2005	New section
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The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Banking Dept.; Attorney General	Various - Revenue Gain	Less than 50,000 annually	Less than 50,000 annually

Municipal Impact: None

Explanation

The bill as amended prohibits usage of a Connecticut bank's, bank's affiliate, or Connecticut or federal credit union's name or trademark in any commercial advertisement or solicitation in a way that might mislead consumers. The bill requires the Banking Department's Commissioner to enforce this prohibition and gives the Commissioner the authority to seek restitution or injunctive relief, impose civil penalties, and issue cease and desist orders.

Although the bill will result in an increase in workload for the Banking Department and potentially the Office of the Attorney General, it is estimated that the agencies will be able to enforce the provisions of the bill within available resources. In FY 04, the Banking Department collected \$455,100 as a result of various violations. Since the civil penalties under the bill are limited to \$10,000 per violation, this could result in a minimal revenue gain to the state.

House "A" extends the bill to Connecticut and federal credit unions.

OLR Bill Analysis

sHB 6696 (as amended by House "A")*

AN ACT PREVENTING BANK IMPERSONATION AND MISLEADING ADVERTISEMENTS**SUMMARY:**

This bill:

1. specifically prohibits the use of the names or trademarks of Connecticut banks, their affiliates, and Connecticut and federal credit unions in any commercial advertisement or solicitation in a way that might mislead consumers,
2. requires the banking commissioner to enforce the prohibition, and
3. gives banks, their affiliates, and credit unions a private cause of action for any violations.

*House Amendment "A" extends the bill to Connecticut and federal credit unions.

EFFECTIVE DATE: October 1, 2005

PROHIBITION ON MISLEADING ADVERTISEMENTS OR SOLICITATIONS

The bill prohibits anyone from using a Connecticut bank, bank affiliate, or Connecticut or federal credit union's name or trademark in any commercial advertisement or solicitation for goods, products, or services, in a way that might lead the consumer to believe there is an affiliation, connection, association, or endorsement relationship between these entities and the person or the products, goods, or services he offers. Under the bill, "commercial advertisement or solicitation" includes the content of an Internet web site or direct mail solicitation.

ENFORCEMENT

The bill requires the commissioner to enforce the prohibition. It incorporates, by reference, the actions he may take under existing law when he suspects someone is violating, is about to violate, or has violated a law under his jurisdiction. This includes the right to seek injunctive relief, impose civil penalties, and issue cease and desist orders. The bill additionally specifies that the commissioner has the right to seek restitution for such violations, as under current law.

The bill limits the imposition of civil penalties for violations to \$10,000 per violation as opposed to the \$100,000 maximum per violation set forth in the statutes.

RIGHT OF ACTION

In addition to any remedy already authorized by law, the bill gives any credit union, bank, or bank affiliate whose name or trademark is used improperly the right to bring an action to stop such use and recover damages. The action must be brought in the Superior Court in the judicial district where the credit union, bank, or its affiliate has a branch or office.

If damages are awarded, the bill requires the court to award the greater of either the amount of actual damages or \$10,000 for each violation. Additionally, it requires the court to award attorney's fees and costs, including court costs, in any successful action.

COMMITTEE ACTION

Banks Committee

Joint Favorable Report

Yea 18 Nay 0